
WISCONSIN LEGISLATIVE COUNCIL STAFF

**1995 ANNUAL REPORT ON THE
LEGISLATIVE COUNCIL RULES CLEARINGHOUSE***

CONTENTS

	<u>Page</u>
<u>Part I:</u> Function of the Legislative Council Rules Clearinghouse	3
<u>Part II:</u> 1995 Activities of the Rules Clearinghouse	7
<u>Appendix 1:</u> Sample Clearinghouse Report	13
<u>Appendix 2:</u> Processing Instructions to Agency Heads	21

* This Report was prepared by Ronald Sklansky, Director, and Richard Sweet, Assistant Director, Rules Clearinghouse, Legislative Council Staff.

PART I
FUNCTION OF THE LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

A. REVIEW OF RULES

Legislative review of proposed administrative rules begins with the submission of a rule to the Legislative Council Rules Clearinghouse. Section 227.15, Stats., requires that, prior to any public hearing on a proposed rule or prior to notification of the presiding officer of each house of the Legislature if no hearing is held, an agency must submit the proposed rule to the Legislative Council Rules Clearinghouse for review by the Council Staff. [See the Administrative Rules Procedures Manual, October 1994, prepared by the Legislative Council Staff and the Revisor of Statutes Bureau, for more information on drafting, promulgating and reviewing administrative rules.]

The Legislative Council Staff is provided 20 working days, following receipt of a proposed rule, within which to prepare a report on its review of the rule. However, with the consent of the Director of the Legislative Council Staff, the review period may be extended for an additional 20 working days.

Upon receipt of a proposed administrative rule, the Legislative Council Staff assigns the rule a Clearinghouse rule number, records the submission of the rule in the Bulletin of Proceedings of the Wisconsin Legislature and prepares two numbered rule jackets, one for the Assembly and one for the Senate.

The Director of the Rules Clearinghouse assigns the rule to a Legislative Council attorney or analyst for review and preparation of the statutorily required report. The staff member generally prepares the report within 10 working days and transmits the report to the Director or Assistant Director for final review. When the report on the proposed rule is completed, the staff returns to the agency the rule, the rule jackets and the Clearinghouse report containing the results of the review. [See Appendix 1 for a sample Clearinghouse report.]

In accordance with s. 227.15, Stats., the Clearinghouse report is structured to:

1. Review the statutory authority under which the agency intends to adopt the rule.
2. Review the proposed rule for form, style and placement in the Administrative Code.
3. Review the proposed rule to avoid conflict with, or duplication of, existing rules.
4. Review the proposed rule to ensure that it provides adequate references to related statutes, rules and forms.

5. Review the language of the proposed rule for clarity, grammar and punctuation and to ensure the use of plain language.

6. Review the proposed rule to determine potential conflicts and to make comparisons with related federal regulations.

7. Review the proposed rule to determine whether the agency has specified the number of business days within which the agency will review and make a determination on an application for a business permit.

As part of this review process, the Legislative Council Staff is directed to ensure that procedures for the promulgation of the rule are followed, as required by ch. 227, Stats., and to streamline and simplify the rule-making process.

B. OTHER RELATED RESPONSIBILITIES

Other primary rule review responsibilities of the Legislative Council Staff include the following:

1. Working with and assisting the appropriate legislative committees throughout the rule-making process.

2. Notifying the Joint Committee for Review of Administrative Rules (JCRAR) and appropriate committees of the Legislature whenever the rule-making authority of an agency is eliminated or significantly changed by the repeal, amendment or creation of a statute, by the interpretive decision of a court of competent jurisdiction or for any other reason.

3. Assisting the public in resolving problems related to administrative rules. This function includes providing information, identifying agency personnel who may be contacted in relation to rule-making functions, describing locations where copies of rules, proposed rules and forms are available and encouraging and assisting participation in the rule-making process.

The final responsibility of the Legislative Council Staff is the submission of an annual report to the chief clerk of each house of the Legislature and to the Governor summarizing any action taken by the Staff and making recommendations to streamline the rule-making process and eliminate obsolete, duplicative and conflicting rules. This document is the 16th Annual Report submitted by the Legislative Council Staff and covers the Staff's activities during calendar year 1995. This Report has been preceded by an initial report to the 1979 Legislature, which covered the Staff's activities from November 2, 1979 to April 1, 1980 (i.e., from the effective date of Ch. 34, Laws of 1979, which initiated the omnibus rule review process, to the end of Floorperiod IV of the 1979 Session) and Annual Reports for calendar years 1980 to 1994.

C. RECORDKEEPING SYSTEM

The Legislature's Bulletin of Proceedings is used for recording actions relating to the review of administrative rules. The Legislative Council Staff, the Senate and Assembly Chief Clerks and the Legislative Reference Bureau cooperate in a computerized recordkeeping system. Commencing with the 1979 Session, action on administrative rules has been shown in a separate part of the Bulletin of Proceedings.

Under this system, each proposed rule is assigned a number and entered in the computer by the Legislative Council Staff. A copy of the Clearinghouse report is placed in a Senate and Assembly rule jacket (similar to bill jackets), and the rule is then transmitted to the agency promulgating the rule for its review. After that, all actions taken on the rule are entered on the face of the jacket and are reported to the Chief Clerks of each house. The Clerks enter the actions in the computerized system, thereby compiling a history of all actions taken on a rule.

At the beginning of each biennial session, the administrative rule portion of the Bulletin of Proceedings is updated by deletion of all records relating to rules which, in the preceding session, have become effective, have been withdrawn or have been permanently objected to by law. Also removed from the Bulletin annually and withdrawn from the rule-making process is any proposed rule that, in accordance with s. 227.14 (6) (c), Stats., has been pending for at least four years, but no more than five years, after the date of its receipt by Legislative Council Staff under s. 227.15 (1), Stats. The final Bulletin printed for the preceding session then serves as the permanent record of the disposition of those rules. The remaining rules, which are still in the promulgation process, are carried over into the new Bulletin of Proceedings for the following biennial session.

The Council Staff cooperates with a private reporting service that reports on recent actions taken on all proposed administrative rules moving through the legislative review process.

PART II

1995 ACTIVITIES OF THE RULES CLEARINGHOUSE

A. LEGISLATIVE COUNCIL STAFF REVIEW OF PROPOSED ADMINISTRATIVE RULES

During 1995, 236 proposed administrative rules were submitted to the Legislative Council Staff by 33 state agencies. Of these, two rules did not require reports, since they related to shoreland or wetland zoning ordinances that were referred to the Clearinghouse solely for processing through the Legislature under s. 87.30 (1) (a), Stats. Consequently, 234 submittals were subject to the Clearinghouse report requirement.

As of December 31, 1995, Legislative Council Staff reports had been completed on 212 of the 234 proposed rules and 22 rules were in the process of review. In addition to the 212 rule reports completed on 1995 rules, reports were prepared in 1995 on 10 rules received in late 1994. Of the 222 reports completed in 1995, no rule required an extension of the review process by the Director of the Legislative Council Staff. Clearinghouse activities in 1995 are summarized below:

Rules Received in 1995		236
Withdrawn	0	
No report required	2	
Pending	22	
		-24
1995 Reports Completed		212
1994 Reports Completed in January 1995		+10
Total Reports in 1995		222

The table below shows that, from November 2, 1979 (the beginning of the omnibus rule review process) through December 31, 1995, the Clearinghouse has received 3,769 rule submissions and completed reviews on 3,670 proposed rules. Of the total rule submissions, 77 were exempt from the reporting process for various reasons and 22 were under review at the end of 1995.

<i>Year</i>	<i>Received</i>	<i>Completed</i>	<i>Exempt</i>
1979	70	45	12
1980	252	227	24
1981	252	234	9
1982	251	254	3
1983	222	220	4
1984	255	247	2
1985	213	206	4
1986	251	252	4
1987	182	186	1
1988	219	216	5
1989	212	208	1
1990	264	254	3
1991	199	205	2
1992	225	228	0
1993	241	232	1
1994	225	234	0
1995	236	222	2
Total	3,769	3,670	77

In 1995, rules were received from the following 33 state agencies:

Number of Proposed Rules, by Submitting Agency

Administration	3	Natural Resources	47
Agriculture, Trade and Consumer Protection	13	Personnel Commission	3
Banking, Office of the Commissioner	3*	Pharmacy Internship Board	1
Corrections	3	Public Defender Board	7
Credit Unions, Office of the Commissioner	1*	Public Instruction	8
Development	17	Public Service Commission	7
Educational Approval Board	2	Railroads, Office of the Commissioner	1
Emergency Response Board	3	Regulation and Licensing	34
Employee Trust Funds	2	Revenue	6
Environmental Education Board	1	Savings and Loan, Office of the Commissioner	2*
Gaming Commission	2	Securities, Office of the Commissioner	2
Health and Social Services	25	Technical College System Board	2
Hearings and Appeals	1	Transportation	17
Historical Society	1	University of Wisconsin System	1
Industry, Labor and Human Relations	11	Veterans Affairs	1
Insurance, Office of the Commissioner	9	Wisconsin Employment Relations Commission	1
Merit Recruitment and Selection	1	TOTAL	236*

*The Offices of the Commissioners of Banking, Credit Unions and Savings and Loan submitted one joint rule.

Although the statistics presented in this Report give some indication of the work load of the Legislative Council Staff in reviewing proposed administrative rules, it should be noted that some proposed rules are only a few sentences long while others exceed 50 pages in length. Similarly, Legislative Council Staff reports vary from completion of a simple checklist to reports of multiple pages. In summary, for all rule reports completed in 1995:

1. The Legislative Council Staff commented on the *statutory authority* of a proposed administrative rule on 55 occasions.
2. The Legislative Council Staff commented on the *form, style and placement* of proposed administrative rules in the Administrative Code on 166 occasions.
3. The Legislative Council Staff commented on a *conflict* with, or *duplication* of, existing rules on three occasions.
4. The Legislative Council Staff commented on the *adequacy of references* of proposed administrative rules to related statutes, rules and forms on 84 occasions.
5. The Legislative Council Staff commented on *clarity, grammar, punctuation and use of plain language* in proposed administrative rules on 156 occasions.
6. The Legislative Council Staff commented on the *potential conflicts* of proposed administrative rules with, and their comparability to, related federal regulations on four occasions. In addition, the Council Staff has adopted a policy of noting when proposed rules are based on federal “*guidelines*,” which do not have the force of law, as opposed to rules based on federal “*regulations*,” which do have the force of law and with which the state may have a legal obligation to comply.
7. The Legislative Council Staff commented on two *permit action deadline requirements*.

B. WORKING WITH AND ASSISTING COMMITTEES

Each standing committee of the Legislature, other than the Joint Committee on Finance, has a Legislative Council Staff attorney or analyst regularly assigned to it. At the time that a committee has a proposed rule referred to it by the presiding officer of the house, the assigned attorney or analyst will participate in whatever level of oversight is chosen to be exercised by the committee.

During 1995, legislative committees held hearings or requested meetings on 33 proposed rules. Modifications to rules were either requested or received in the legislative review of 19 proposed rules. Committees did not exercise their power to disapprove proposed rules in whole or in part.

As a result of committee activities, a total of two rule objections were subject to JCRAR jurisdiction in 1995. [Both rule objections occurred in 1994, but were retained by JCRAR for action in 1995.] The JCRAR nonconcurred in the objections to the two proposed rules.

The table below reviews legislative committee activity in the review of proposed administrative rules beginning on November 2, 1979 and ending on December 31, 1995.

LEGISLATIVE REVIEW OF PROPOSED ADMINISTRATIVE RULES (November 2, 1979 Through December 31, 1995)*						
Year	Rules Submitted	Rules Subject to Modification	Committee Review Objections	JCRAR Rule Objections	Enacted Laws Following Rule Objections	Enactments by Session Law and Other Description of Bills Introduced Following Rule Objections
11/2/79-80	322	18	5	1	0	No bill introduced, rule withdrawn
1981	252	29	10	4	4	Chapters 20 (SEC. 1561), 26, 31 and 180, Laws of 1981
1982	251	31	4	1	1	1983 Wisconsin Act 94
1983	222	30	5	0	0	--
1984	255	26	2	2	2	1983 Wisconsin Act 310 and 1985 Wisconsin Act 29 (SEC. 826)
1985	213	37	8	3	2	♦ 1985 Wisconsin Act 29 (SECS. 1059r and 2238ng to 2238or) ♦ 1985 Assembly Bill 460, passed and vetoed; override failed
1986	251	30	1	0	0	--
1987	182	30	5	0	0	--
1988	219	38	4	0	0	--
1989	212	22	6	2	0	♦ 1989 Senate Bill 89 and 1989 Assembly Bill 171 (failed to pass) ♦ 1989 Senate Bill 248 and 1989 Assembly Bill 457 (failed to pass)
1990	264	29	2	1	0	♦ 1991 Senate Bill 24 and 1991 Assembly Bill 71 (failed to pass)
1991	199	19	5	1	0	♦ 1991 Senate Bill 442 and 1991 Assembly Bill 840 (failed to pass after rule objected to withdrawn by agency)
1992	225	33	3	2	1	♦ 1993 Wisconsin Act 9 ♦ 1993 Senate Bill 3 and 1993 Assembly Bill 17 (pending)
1993	241	24	1	0	0	--
1994	225	29	3	0	0	--
1995	236	19	0	0	0	--
TOTAL	3,769	444	64	17	10 (PLUS ONE BILL PASSED AND VETOED; VETO NOT OVERRIDDEN)	

* The general system of legislative review of proposed administrative rules, primarily embodied in ss. 227.15 and 227.19, Stats., took effect on November 2, 1979, as part of Ch. 34, Laws of 1979.

C. NOTICE OF CHANGE IN RULE-MAKING AUTHORITY

To date, no court decisions or changes in legislation have been brought to the attention of the Legislative Council Staff that would require notification of the JCRAR or appropriate standing committees of a change in, or the elimination of, agency rule-making authority.

D. ASSISTING ADMINISTRATIVE AGENCIES

The Legislative Council Staff has responded to numerous questions from agency personnel, relating to both the process and the law governing legislative review of proposed rules.

The Director of the Rules Clearinghouse described the process of rule drafting and legislative review of administrative rules in a guest lecture to a class of the Marquette Law School studying Administrative Law. The presentation took place on March 21, 1995 in Milwaukee, Wisconsin.

E. REVISION OF STATUTES DEALING WITH ADMINISTRATIVE RULE-MAKING

1995 Wisconsin Act 106 creates a procedure that an agency must follow prior to, and coinciding with, submittal of a proposed rule to the Legislative Council Staff. The Act creates s. 227.135, Stats., to require an agency to prepare a statement of the scope of any rule it plans to promulgate. The statement must include all of the following items:

1. A description of the objective of the rule.
2. A description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives.
3. The statutory authority for the rule.
4. Estimates of the amount of time state employees will spend to develop the rule and of other resources necessary to develop the rule.

A state employee or official may not perform any further activity in connection with a proposed rule, except preparatory functions, until the individual or body with policy-making powers over the subject matter of the proposed rule approves the scope statement. If a disapproval does not occur within 30 days of submittal, the statement is considered to be approved. Once approved, the agency must send the scope statement to the Revisor of Statutes for publication in the Administrative Register. At the same time, the agency must send a copy of the scope statement to the Secretary of the Department of Administration (DOA). Further agency action may not be taken on the scope statement until at least 10 days after publication of the statement in the Administrative Register.

Act 106 also creates s. 227.15 (4m), Stats., to require an agency to prepare a written notice of the agency's proposed rule submittal to the Legislative Council Staff. The notice must accomplish all of the following:

1. Include a statement of the date on which the proposed rule has been submitted to the Legislative Council Staff for review.
2. Include a statement of the subject matter of the proposed rule and of whether a public hearing on a proposed rule is required.
3. Identify the organizational unit within the agency that is primarily responsible for the promulgation of the rule.

This notice must be approved by the individual or body with policy-making powers over the subject matter of the proposed rule and the notice must be sent to the Revisor of Statutes for publication in the Administrative Register. At the time the notice is sent to the Revisor, the agency must send a copy of the notice to the Secretary of DOA.

With respect to the public hearing stage of administrative rule-making, the Act makes the following changes to current law:

1. Section 227.16 (2) (a), Stats., is repealed, thus requiring an agency to hold a hearing on a proposed rule regardless of whether the proposed rule can be characterized as procedural rather than substantive.
2. An agency is required to send written notice of a public hearing on a proposed rule to the Secretary of DOA.
3. The notice of a hearing on a proposed administrative rule must be approved by the individual or body with policy-making powers over the subject matter of the proposed rule.

In general, the provisions of Act 106 first apply to proposed rules in various stages of promulgation on April 1, 1996.

F. PUBLIC LIAISON

To date, the Legislative Council Staff has received minimal requests from the public. These infrequent questions have either concerned aspects of the rule review procedure or have related to the status of specific rules.

RS:RNS:kjf;kja

APPENDIX 1
SAMPLE CLEARINGHOUSE REPORT

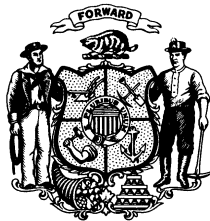
WISCONSIN LEGISLATIVE COUNCIL STAFF

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FORM 2

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 95-227

AN ORDER to renumber DOC 328.03 (2) to (4), (15), (17) to (19) and (22) to (34); to amend DOC 328.05 (1) (d) and (11); and to create DOC 328.03 (2), (19) and (22); 328.04 (3) (n) and 328.043 to 328.05, relating to supervision fee charged to probationers and parolees.

Submitted by **DEPARTMENT OF CORRECTIONS**

12-15-95 RECEIVED BY LEGISLATIVE COUNCIL.
01-16-96 REPORT SENT TO AGENCY.

RS:DLS;jt;wu

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES ☒ NO ☐

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES ☒ NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES ☐ NO ☒

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES ☐ NO ☒

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES ☒ NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES ☐ NO ☒

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

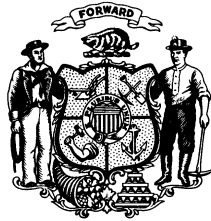
Comment Attached YES ☐ NO ☒

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CLEARINGHOUSE RULE 95-227

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

a. Sections 301.08 (1) (c) 2., 304.073 (3) and 304.074 (5), Stats., as created by 1995 Wisconsin Act 27, all require the department to promulgate rules setting fees or rates for supervision services and providing procedures for collection of supervisory fees. The rule fails entirely to meet these goals. For example, s. DOC 328.043 (2) (intro.) provides that the department must set the fee for supervision. [See also ss. DOC 328.044 (2) (intro.), 328.045 (2) (intro.) and 328.046 (2) (intro.).] With respect to the requirement that the department promulgate rules regarding the procedures for collection of supervisory fees, s. DOC 328.047 (2) and (4) provide that offenders must pay fees according to “procedures established by the department.” Although these rules provide the department with much desired flexibility in fashioning fees and collection procedures, they do not appear to meet the plain language requirements of the statutes. Placing the fees and procedures clearly in the rule allows the Legislature to review the decisions of the department under the process described in s. 227.19, Stats. If the department wishes to set fees and collection procedures outside of the rule-making process, the statutes should be amended appropriately. [For example, see the general presumption in s. 227.01 (13) (n), Stats., which provides that an agency does not engage in rule-making when it fixes or approves rates, prices or charges, unless a statute specifically requires them to be fixed or approved by rule.]

b. New s. 304.074 (3), Stats., created by 1995 Wisconsin Act 27, sets forth the conditions under which the department may decide not to charge a reimbursement fee. The department's rules relating to these conditions are found in s. DOC 328.045 (3) (a). In the statute, the second condition is that the person is "pursuing a full-time course of instruction approved by the department." Section DOC 328.045 (3) (a) 2. does not appear to adequately reflect or appropriately expand on that statutory provision. There is no reference to full-time course of instruction or what that means to the department, there is no definition of "school" as used in the rule and there is a requirement, not found in the statute, that the "student...is unable to be employed." It appears that this provision needs to be further developed to accurately reflect the intent of the Legislature and to clearly interpret the statutory condition for possible exemption from the fee.

c. The rule refers to both "supervision fees" and "monitoring fees." The statutory provisions in 1995 Act 27 refer only to fees for "supervision." Although "monitoring" and "supervision" appear to be comparable activities (i.e., monitoring is a "subset" of "supervision"), there is nothing in the analysis to indicate why monitoring is dealt with in the rule, what the difference is between monitoring and supervision, why the department thinks that Act 27 covers the imposition of fees for both of these activities, and so forth. This should be clarified in the analysis and in the rule.

2. Form, Style and Placement in Administrative Code

a. In SECTION 2, the cross-reference should be to s. 301.08 (1) (c) 1. a., Stats. Also, since the statutory definitions of "administrative supervision" and "minimum supervision" are brief, the department may wish to repeat those definitions in the rule for the convenience of those using the rule.

b. In SECTION 9, the definition of "high risk supervision" needs to be redrafted because "supervision" does not mean "an offender." Perhaps the definition could be revised as follows: "'High risk supervision' means the type of supervision applicable to (or perhaps 'necessary for') an offender who presents risks that carry extreme consequences and who requires that plans are developed...." Also, the term "extreme consequences" is vague and should be defined, if possible. Also, since the term "offender" under the rule refers to a probationer or parolee, the term should be defined or "probationer or parolee" should be substituted for "offender" wherever appropriate throughout the entire rule.

c. Section DOC 328.043 (2) should be redrafted to read:

(2) SUPERVISION FEE. The department shall set a supervision fee for an offender that is sufficient to cover the cost of his or her supervision and shall do all of the following:

(a) Determine the monthly cost of supervision of the offender.

(b) Determine the supervision fee....

Also, for clarity, sub. (3) could be redrafted to separate out the duties of the department and the offender as follows:

(3) (title) With reference to the supervision fee under sub. (2):

(a) The department shall do all of the following:

1. Record all supervision fees paid by the offender.
2. Advise....

(b) The offender shall do or is entitled to do all of the following:

1. Maintain a record of payments.
2. Have access to....

The same comments with reference to s. DOC 328.043 also apply to the structure of ss. DOC 328.044 to 328.047.

d. In s. DOC 328.044 (2) (e), “cost” should be “costs.” Subsection (3) (f) should read: “The vendor shall, at any time the department deems necessary, permit the department to audit the vendor’s records related to the payment of supervision fees by offenders under this section.” Also, since this type of provision applies to other sections in the rule, the department may wish to have a separate section setting forth this authority and making it applicable to all the sections. Finally, s. DOC 328.044 (2) (a) refers to the cost of supervision and the administration of the vendor contract. The remainder of the section refers to a supervision fee without any reference to a fee for administration. It appears that such a reference should be included. [See also s. 301.08 (1) (c) 2., Stats., as created by 1995 Wisconsin Act 27.]

e. In s. DOC 328.045 (2) (a), insert “if appropriate” after “per day” in accordance with the statutory language created in 1995 Wisconsin Act 27, which created the statutory language on which this rule is based. Paragraph (e) should be redrafted to read: “If sub. (3) is applicable, exempt the offender from paying the supervision fee.” In sub. (3) (a), substitute “Except under par. (b), an” for “An.” In subd. 1, substitute “obtain” for “gain,” insert “offender’s probation or parole” before “agent,” delete the comma after “unable” and substitute “to pay the supervision fee” for “to make payment of the supervision fee.” In subd. 2., “certify the offender’s status” as what “to the department”? In subd. 4., either “medical condition” or “medical reason” should be used, not both. In par. (b), substitute “shall” for “will.”

f. In s. DOC 328.046 (1), insert “between the offender and the vendor” after “contact.”

g. In s. DOC 328.047, reference is made to a supervision fee and a monitoring fee, but in certain places in this section, reference is made only to supervision fee. Should reference to both of these fees be consistent throughout this section? Subsection (5) (c) should read: “That the deadline for the final payment is 30 days before the offender’s discharge from supervision or

monitoring.” In sub. (8), substitute “When the contract is completed, the vendor” for “The vendor.”

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section DOC 328.045 (3) (d) refers to the review of decisions to exempt an offender from the payment of the supervision fee. Who makes these decisions? Also, in sub. (4) (e), it appears that the phrase “the payment record” should be inserted after the word “comparing.”

b. In s. DOC 328.046 (3) (e), it appears that the phrase “of the department” is unnecessary and should be deleted.

c. In s. DOC 328.047 (intro.), the reference to the “supervision or monitoring fee” also should include cross-references to the appropriate sections of the rule requiring these fees. Also, it appears that subs. (3) (intro.) and (7) are duplicative.

d. In s. DOC 328.048 (2), there does not appear to be any reason for the language after “assignment” and that language should be deleted. In sub. (3), what is the meaning of the term “approved custody”? This should be explained. Also, in sub. (4), the phrase “but the offender fails to pay the fee” is redundant, in view of the introduction to this section, and should be deleted.

e. In s. DOC 328.05 (3), “The” should be “An.” Also, are the vendor’s procedures set forth in the contract with the department? This provision seems to indicate that the vendor can establish whatever procedures the vendor wants. Is this what is intended?

f. Sections DOC 328.04 (3) (n) and 328.05 (1) (d) and (11) should include appropriate cross-references to the rule provisions requiring supervision fees. Also, the treatment of s. DOC 328.04 (3) (n) should precede the creation of s. DOC 328.043 and it appears that the numbering and creation of s. DOC 328.05 in the rule conflicts with the existing s. DOC 328.05 in the current Wisconsin Administrative Code.

APPENDIX 2
PROCESSING INSTRUCTIONS TO AGENCY HEADS

